

THE EFFECTIVE DATE OF THIS ORDINANCE IS JULY 1, 2007

ORDINANCE NO. 07-19-459

Re: Revisions To The Frederick County
Employees Retirement Plan

RECITALS

The Board of County Commissioners of Frederick County ("Board") by Ordinance No. 93-11-075 established a retirement plan for the employees of the Frederick County Government, effective July 1, 1993. The Frederick County Employees Retirement Plan ("Plan") was later amended by Ordinance No. 93-30-094, Ordinance No. 94-26-121, Ordinance No. 96-16-168, Ordinance No. 98-07-209, Ordinance No. 00-03-245, Ordinance No. 01-09-283, Ordinance No. 01-21-295, Ordinance No. 02-12-308 and Ordinance No. 03-11-334.

The Board now deems it appropriate to make certain additional revisions to the Plan to: (1) clarify the date on which an employee becomes employed by the County for purposes of earning service credit under the Plan; (2) clarify the requirements for receiving service credit under the "uniformed" and "non-uniformed" benefit formulas; (3) allow an employee on leave of absence because of a work-related injury to restore service credit for the time on leave by contributing the missed contributions plus interest; (4) conform the provisions for crediting service to the Plan's operations; (5) expand the method by which a participant transferring service from the Maryland State Retirement System may contribute funds to the Plan to avoid a benefit

offset; (6) revise the Plan's provisions regarding purchases of service to mirror the provisions of the State Retirement System and expand the available methods for purchasing service; (7) revise the timing of refunds of amounts paid to purchase service to conform to Internal Revenue Service requirements; (8) provide that interrupting military service credit will not offset service credit awarded for military service earned before a participant's employment with the County; (9) amend the Plan's provisions regarding transfers of non-uniformed service by participants in uniformed positions and terminations of employment within five years of transferring service; (10) conform the Plan's method of crediting service for accrued sick leave to the Plan's recordkeeping system; (11) revise the Plan's provisions for offsetting disability benefits by social security benefits; and (12) clarify the terms of the cash out distribution option under the Plan.

A hearing was held on June 12, 2007 at which time members of the public and plan participants had an opportunity to comment on the proposed revisions.

NOW THEREFORE BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS FOR FREDERICK COUNTY, MARYLAND that: the provisions set forth on the attached Exhibit A, entitled "Eleventh Amendment to the Frederick County Employees Retirement Plan" are hereby adopted and incorporated into the Frederick County Employees Retirement Plan.

AND BE IT FURTHER ENACTED AND ORDAINED that: the changes and revisions made by this Ordinance shall be effective on July 1, 2007 unless otherwise provided in the Amendment.

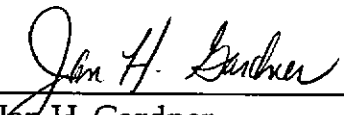
The undersigned hereby certifies that the foregoing Ordinance was approved and adopted on the 12 day of June, 2007:

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY



Douglas D. Browning
County Manager

By: 

Jan H. Gardner
President

1732170

UBT
6-13-07

EXHIBIT A
ELEVENTH AMENDMENT TO THE
FREDERICK COUNTY EMPLOYEES RETIREMENT PLAN

1. The definition of "Employment Commencement Date" in Article II is amended to read as follows:

Employment Commencement Date - The date on which the Employee first performs an Hour of Service FOR THE COUNTY AS A BENEFITTED EMPLOYEE OF THE COUNTY.

2. The definition of "Normal Retirement Date" in Article II is amended to read as follows:

Normal Retirement Date - The first day of the month coinciding with or next following either:

Uniformed Participant - The earlier of the date on which a Uniformed Participant has (i) completed 20 Years of Eligibility Service, or (ii) attained at least age 50 and completed at least five Years of Eligibility Service.

Non-Uniformed Participant - The earlier of: (i) the date on which a Non-Uniformed Participant has completed 25 Years of Eligibility Service, or (ii) the date on which a Non-Uniformed Participant has met one of the following age and service requirements:

<u>Age</u>	<u>Years of Eligibility Service</u>
60	5 Years
61	5 Years
62	5 Years
63	4 Years
64	3 Years
65 or older	2 Years

Dual Service Participant - The Normal Retirement Date for a Dual Service Participant with fewer than 10 Years of Eligibility Service EARNED as a Uniformed Participant shall be the same as the Normal Retirement Date for Non-Uniformed Participants. The Normal Retirement Date for a Dual Service Participant with 10 or more Years of Eligibility Service EARNED as a Uniformed Participant shall be the same as the Normal Retirement Date for a Uniformed Participant.

3. The definition of "Reemployment Commencement Date" in Article II is amended to read as follows:

Reemployment Commencement Date - The date on which an Employee first performs an Hour of Service FOR THE COUNTY AS A BENEFITTED EMPLOYEE OF THE COUNTY after a period during which no Hours of Service were performed by reason of the Participant's Termination Date or otherwise.

4. Section 4.2 is amended to read as follows:

4.2 Leaves of Absence - Except as otherwise provided in this Section, Hours of Service will not be counted for the customary hours of work during a Leave of Absence. However, a Participant who fails to earn a Year of Eligibility Service or a Year of Creditable Service during a Plan Year because of a Leave of Absence, which is approved by the County prior to the Leave of Absence, may elect to receive credit for Years of Eligibility Service and Years of Creditable Service AS FOLLOWS: [[to a maximum of one year to the extent of his authorized Leave of Absence.]]

(A) LEAVE OF ABSENCE: WORKERS' COMPENSATION - A PARTICIPANT ON A LEAVE OF ABSENCE BY REASON OF AN ACCIDENT OR INJURY THAT HAS BEEN SUSTAINED AS AN ACTIVE COVERED EMPLOYEE AND THAT HAS BEEN RULED COMPENSABLE UNDER THE MARYLAND WORKERS' COMPENSATION ACT MAY ELECT TO RECEIVE CREDIT FOR YEARS OF ELIGIBILITY SERVICE AND YEARS OF CREDITABLE SERVICE TO THE EXTENT OF HIS AUTHORIZED LEAVE OF ABSENCE. IF A PARTICIPANT DOES SO ELECT HE SHALL BE REQUIRED TO PAY OVER TO THE PLAN, WITHIN THE BUYBACK PERIOD, OR WITHIN 90 DAYS BEFORE HIS BENEFIT COMMENCEMENT DATE, THE CONTRIBUTIONS THAT WOULD HAVE BEEN MADE BY THE PARTICIPANT PURSUANT TO SECTION 5.4 DURING THE PERIOD OF THE LEAVE OF ABSENCE, PLUS INTEREST OF 4.0% COMPUTED ON JULY 1 OF EACH YEAR AND COMPOUNDED ANNUALLY.

(B) LEAVE OF ABSENCE: OTHER THAN WORKERS' COMPENSATION - A PARTICIPANT ON A LEAVE OF ABSENCE OTHER THAN BY REASON OF AN ACCIDENT OR INJURY THAT HAS BEEN SUSTAINED AS AN ACTIVE COVERED EMPLOYEE AND THAT HAS BEEN RULED COMPENSABLE UNDER THE MARYLAND WORKERS' COMPENSATION ACT MAY ELECT TO RECEIVE CREDIT FOR YEARS OF ELIGIBILITY SERVICE AND YEARS OF CREDITABLE SERVICE (TO A MAXIMUM OF ONE YEAR) TO THE EXTENT OF HIS AUTHORIZED LEAVE OF ABSENCE. If a Participant does so elect he shall be required to pay over to the plan, within the buyback period, or within 90 days before his Benefit Commencement Date, the Actuarial Equivalent of that portion of his projected benefit attributable to the Leave of Absence.

(C) BUYBACK PERIOD; FORM OF PAYMENT - For purposes of this Section 4.2, the Participant's buyback period is the five-year period beginning with the date the Participant returns from the Leave of Absence. A Participant's payments hereunder may be in the form of a lump sum payment, installment payments, or a combination of the two forms of payment. A PARTICIPANT'S PAYMENTS SHALL BE ACCOUNTED FOR PURSUANT TO SECTION 5.5.

(D) DEATH AND DISABILITY BENEFITS - A Participant who is on a Leave of Absence (or his Beneficiary) remains eligible for disability benefits as provided by Section 6.4 or for death benefits as provided by Section 7.1.

5. Section 4.3(a) is amended to read as follows:

(a) Vesting - For purposes of determining the extent to which a Participant is vested in his Accrued Benefit, he shall receive credit on the basis of the number of his Years of Eligibility Service. However, for Plan Years which contain the Participant's Employment Commencement Date and his Termination Date, he shall receive fractional credit equal to 1/12th of a Year of Eligibility Service for each calendar month during which he was a Covered Employee for the entire month. Notwithstanding the foregoing, the Participant shall receive fractional credit equal to 1/12th of a Year of ELIGIBILITY [[Creditable]] Service if he was a Covered Employee for at least one day during the month which contains the Participant's Employment Commencement Date, but he shall receive no fractional credit with respect to the month which contains his Termination Date unless he was a Covered Employee for the entire month.

6. Section 4.4(a)(i) is amended to read as follows:

(i) Credit for Years of Eligibility Service and Years of Creditable Service shall be granted to any Participant: (A) who irrevocably elects, within the later of (1) one year of first performing an Hour of Service as a Covered Employee, or (2) within 90 days following July 1, 1998, to transfer the amount of any Participant contributions made to another Government Employer Retirement Plan under which he was covered, together with interest previously credited by such plan to this Plan; and (B) who is participating in a plan which provides for the transfer of credit for service and contributions to this Plan. Notwithstanding the foregoing, service credit shall be given for service transferred only to the extent required by, and in accordance with, the provisions of Title 37 of the State Personnel and Pensions Article of the Annotated Code of Maryland, or any successor statute. WITH RESPECT TO SERVICE TRANSFERRED PURSUANT TO SECTION 37.203.1(D) OF THE STATE PERSONNEL AND PENSIONS ARTICLE OF THE ANNOTATED CODE OF MARYLAND, PERTAINING TO TRANSFERS OF SERVICE FROM CERTAIN CONTRIBUTORY SYSTEMS OF THE STATE OF MARYLAND, OR ANY SUCCESSOR STATUTE, THE DEPOSIT OF SUMS IN ADDITION TO THE TRANSFER OF THE PARTICIPANT'S CONTRIBUTIONS MAY BE ACCOMPLISHED BY ONE OR MORE OF THE FOLLOWING METHODS: (1) A LUMP SUM CASH PAYMENT TO THE PLAN, (2) A ROLLOVER FROM ANOTHER

EMPLOYER'S QUALIFIED RETIREMENT PLAN, (3) A ROLLOVER FROM AN ELIGIBLE DEFERRED COMPENSATION PLAN ESTABLISHED PURSUANT TO SECTION 457(B) OF THE CODE, (4) A ROLLOVER FROM A TAX DEFERRED ANNUITY ESTABLISHED PURSUANT TO SECTION 403(B) OF THE CODE, OR (5) A ROLLOVER FROM AN INDIVIDUAL RETIREMENT ACCOUNT ESTABLISHED PURSUANT TO SECTION 408(A) OF THE CODE.

7. Section 4.4(a)(iii)(B) is amended to read as follows:

(B) Timing of Election to Purchase Service - If the Participant makes an election to purchase service under this Section 4.4(a)(iii), the election shall be made, and the Participant shall make the required payments to the Plan, within the TWELVE MONTH PERIOD ENDING ON THE PARTICIPANT'S TERMINATION DATE. ~~[[buyback period or within 90 days before his/her Benefit Commencement Date. For purposes of this Section 4.4(a)(iii), the Participant's buyback period is any five-year period following the Participant's election to purchase service]]~~ Notwithstanding the foregoing, the Participant's election of the timing of payment for credit for service may be modified by the County to the extent necessary to conform to Section 415 of the Internal Revenue Code.

8. Section 4.4(a)(iii)(C) is amended to read as follows:

(C) Methods of Payment for Purchased Service - The Participant's election to purchase credit for service shall also include an election of the method by which the Participant will purchase the credit for service. The Participant may pay over to the Plan the amounts calculated pursuant to subsection (A) hereof by either (1) a lump sum cash payment to the Plan, (2) a rollover from another employer's qualified retirement plan, (3) a rollover from an eligible deferred compensation plan established pursuant to Section 457(b) of the Code, (4) a rollover from a tax deferred annuity established pursuant to Section 403(b) of the Code, (5) A ROLLOVER FROM AN INDIVIDUAL RETIREMENT ACCOUNT ESTABLISHED PURSUANT TO SECTION 408(A) OF THE CODE, ~~[(5)]~~ (6) installment payments by the Participant to the Plan, or ~~[(6)]~~ (7) a combination of any of the methods designated in (1) through (6) ~~[(5)]~~. Installment payments pursuant to (6) ~~[(5)]~~ above may be made on either, but not both, an after-tax basis, or, following the effective date of Section 5.4(a)(iii), a pre-tax basis. If the Participant elects to purchase the credit in whole or in part by pre-tax installment payments pursuant to Section 5.4(a)(iii), such a purchase shall be pursuant to a binding, irrevocable payroll deduction authorization between the County and the Participant which provides for the number of payroll deductions and the dollar amount of each deduction. After-tax installment payments may be made by either, but not both, payroll deduction or direct payment by the Participant to the Plan. Notwithstanding the foregoing, the Participant's election of the method of payment for purchased service may be modified by the County to the extent necessary to conform to Section 415 of the Internal Revenue Code.

9. Section 4.4(a)(iii)(E) is amended to read as follows:

(E) Return of Payments After Five Years of Service for County - If a Participant reaches a Termination Date prior to his/her Early Retirement Date or Normal Retirement Date, but after completing five years of service as a County Employee, without regard to service purchased or transferred or received on account of Military Service, the Participant, or the Participant's Beneficiary, may elect, AT ANY TIME FOLLOWING THE PARTICIPANT'S TERMINATION DATE, to receive a return of the payments made pursuant to this Section 4.4(a)(iii), plus interest at the rate determined under (a) hereof, in the form of either (1) a lump sum payment, or (2) a monthly benefit equivalent to the lump sum payment, with the equivalence to be determined pursuant to the factors utilized pursuant to (a) hereof. Notwithstanding the foregoing, the Participant's election with respect to receipt of a return of payments may be modified to the extent necessary to conform to Section 415 of the Internal Revenue Code.

10. Section 4.4(a)(iii)(F) is amended to read as follows:

(F) Return of Payments Prior to Five Years of Service for County - If a Participant reaches a Termination Date prior to the date the Participant completes five years of Eligibility Service as a County Employee, without regard to service purchased or transferred or received on account of Military Service, the Participant, or the Participant's Beneficiary, will receive, AS SOON AS PRACTICAL FOLLOWING THE PARTICIPANT'S TERMINATION DATE, a return of the payments made pursuant to this Section 4.4(a)(iii), plus interest at the rate determined under (a) hereof, in the form of a lump sum payment. Notwithstanding the foregoing, the Participant's receipt of a return of payments may be modified to the extent necessary to conform to Section 415 of the Internal Revenue Code. NOTWITHSTANDING THE FOREGOING, TO THE EXTENT THE DISTRIBUTION EXCEEDS \$1,000 AND IS AN "ELIGIBLE ROLLOVER DISTRIBUTION," AS DEFINED IN SECTION 8.4, THE DISTRIBUTION WILL BE MADE ONLY AT THE ELECTION OF THE PARTICIPANT.

11. Section 4.4(a)(v) is amended to read as follows:

(v) Any Covered Employee may elect to receive service credit for his Military Service as follows (subject to any applicable law which mandates additional benefits):

(A) If a Participant's service with the County is interrupted by Military Service, he will receive credit for Years of Eligibility Service and Years of Creditable Service to the extent of his Military Service (to a maximum of five years UNLESS A GREATER AMOUNT IS REQUIRED BY LAW) provided that he resumes employment with the County within one year of his discharge from Military Service.

(B) If a Participant's Military Service precedes his Employment Commencement Date, the Participant will receive credit for Years of Eligibility Service and Years of Creditable Service to the extent of his Military Service (to a maximum of five

years) provided that he earns 10 Years of Eligibility Service other than his Military Service.

(C) A Participant will not receive credit for service pursuant to Section 4.4(a)(v)(A) if the service was rendered for the Peace Corps or the Volunteers in Service to America or is service which is not "service in the uniformed services" within the meaning of the Uniformed Services Employment and Reemployment Rights Act of 1994. A Participant will not receive credit for service pursuant to Section 4.4(a)(v)(B): (1) if the Military Service has been previously recognized by the Maryland State Retirement System, (2) if the Participant is entitled to receive a pension benefit (except for disability benefits, Social Security benefits or benefits under the National Railroad Retirement, National Guard or military reserve, or a pension described in Chapter 1223 of the United States Code) from another retirement system, on account of the Military Service, or (3) if the service was rendered for the National Guard, Merchant Marine Service, Military Reserve Service, the Peace Corps or Volunteers in Service to America.

[[(D) If a Participant receives credit for Years of Eligibility Service and Years of Creditable Service under both (A) and (B) above, the total service credited shall not exceed the greater of (1) five years or (2) the amount of service credited pursuant to subsection (A).]]

12. Section 4.4(b) is amended to read as follows:

(b) Amount of Credited Service - For service transferred pursuant to Section 4.4(a)(i) and (ii), a Participant shall receive credit for Years of Eligibility Service and Years of Creditable Service only to the extent required under the provisions of Title 37 of the State Personnel and Pensions Article of the Annotated Code of Maryland. Furthermore, a Participant shall receive no more than 12 months of service credit toward a Year of Eligibility Service and a Year of Creditable Service for service transferred or earned as a County Employee in one 12 month period. FURTHERMORE, ONLY SERVICE TRANSFERRED PURSUANT TO SECTION 4.4(A)(I) AND 4.4(A)(II) THAT WOULD HAVE BEEN DEEMED TO BE SERVICE AS A UNIFORMED EMPLOYEE IF EARNED FOR THE COUNTY WILL BE CREDITED AS SERVICE AS A UNIFORMED PARTICIPANT FOR ALL PURPOSES UNDER THE PLAN.

13. Section 4.4(d) shall be amended to read as follows:

(d) Retirement Within Five Years of Transferring Service - Notwithstanding any other provision of this Section 4.4, if a Participant reaches a Termination Date, other than by reason of death, AND BEGINS RECEIVING PAYMENT OF BENEFITS PURSUANT TO ARTICLE VIII within five years after the PARTICIPANT'S EMPLOYMENT COMMENCEMENT DATE OR REEMPLOYMENT COMMENCEMENT DATE PRECEDING THE TRANSFER OF SERVICE [[date of the transfer of service]], the portion of the Participant's monthly retirement income payable with respect to the service credit transferred pursuant to Sections 4.4(a)(i) or 4.4(a)(ii) may

not be greater than the benefit that would have been payable by the other Government Employer Retirement Plan with respect to that service if the Participant had remained a Participant in the other Government Employer Retirement Plan.

14. Section 5.5(b)(ii) shall be amended to read as follows:

(ii) A Participant who is on an approved Leave of Absence, as described in Section 4.2, and who elects to [purchase] RECEIVE service credit in accordance with Section 4.2, shall pay over to the Plan the CONTRIBUTIONS PLUS INTEREST AS DESCRIBED IN SECTION 4.2(A) OR THE Actuarial Equivalent of his projected benefit as described in Section 4.2(B), AS THE CASE MAY BE.

15. Section 6.1(d) shall be amended to read as follows:

(d) Credit for Accrued Sick Leave - Solely for purposes of determining the amount of the Participant's benefits payable pursuant to Sections 6.1, 6.2, or 6.3, the Participant shall receive up to two additional Years of Creditable Service for unused sick leave. Unused sick leave shall be credited BY DIVIDING THE NUMBER OF ACCRUED SICK LEAVE HOURS AS OF THE PARTICIPANT'S TERMINATION DATE BY THE NUMBER OF HOURS IN THE PARTICIPANT'S REGULARLY SCHEDULED WORK DAY AS OF THE PARTICIPANT'S TERMINATION DATE, THEN DIVIDING THE PRODUCT BY 22, THEN FURTHER DIVIDING THE PRODUCT BY 12 AND ROUNDING TO THE CLOSEST 10,000TH [[at the rate of one-twelfth (1/12) of a Year of Creditable Service for each 22 days of unused sick time accrued by the Participant as of his Termination Date. If after crediting sick time in multiples of 22 days, eleven or more days of unused sick days remain uncredited, the Participant will receive an additional one-twelfth (1/12th) of a Year of Creditable Service.]]

16. Section 6.4(b) shall be amended to read as follows:

(b) Line of Duty Disability - A Participant (regardless of his/her length of service or vested status) who terminates employment by reason of total and permanent disability, incurred as a result of an accident or injury which has been sustained as an active Covered Employee and which has been ruled compensable under the Maryland Workers' Compensation Act, shall be entitled to receive a lump sum distribution of his/her Pick-Up Contributions Benefit, if he/she is entitled to the benefit, and a monthly benefit equal to the greater of: (i) the benefit determined pursuant to Section 6.4(a), or (ii) the lesser of: (A) a monthly amount which, when combined with any Social Security disability benefits he/she is entitled to receive ON ACCOUNT OF THE INJURY OR ILLNESS UNDERLYING THE PARTICIPANT'S TOTAL AND PERMANENT DISABILITY, equals 100% of his/her Highest Average Compensation determined at the time his/her disability is incurred, or (B) 66-2/3% of such Highest Average Compensation. FOR PURPOSES OF THIS SECTION 6.4(B), "SOCIAL SECURITY DISABILITY BENEFITS" SHALL BE LIMITED TO THE INITIAL MONTHLY BENEFIT RECEIVED BY THE DISABLED PARTICIPANT, AND SHALL NOT INCLUDE

RETROACTIVE PAYMENTS OR AMOUNTS REPRESENTING ATTORNEYS' FEES OR OTHER FEES OR REIMBURSEMENTS ASSOCIATED WITH THE AWARD OF SOCIAL SECURITY DISABILITY BENEFITS.

17. Section 8.2(c) shall be amended to read as follows:

(c) Lump Sum Method - The lump sum method is A ~~[[an automatic]]~~ Cash-Out of the Participant's Employee Contributions Benefit, MADE AT THE ELECTION OF THE PARTICIPANT PURSUANT TO SECTIONS 5.4(C) OR 5.5(E), in lieu of all other benefits under the Plan.

Underscoring and CAPITALS indicates matter added to existing Plan document.
[Brackets] indicate matter deleted from existing Plan document.

1678023